

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

JUNE 15 2007

COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2007-0025-PR
)	DEPARTMENT B
v.)	
)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
ROBERT GONZALEZ,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20013926

Honorable Patricia G. Escher, Judge

REVIEW GRANTED; RELIEF DENIED

Robert Gonzalez

Florence
In Propria Persona

B R A M M E R, Judge.

¶1 After two separate jury trials, petitioner Robert Gonzalez was convicted of nine felony counts, including two counts of attempted first-degree murder, three counts of aggravated assault with a deadly weapon or dangerous instrument, two counts of endangerment, and one count each of aggravated assault resulting in serious physical injury and disorderly conduct. He was sentenced to aggravated terms of imprisonment, some

concurrent and some consecutive, for a total of thirty-six years. We affirmed his convictions and sentences on appeal. *State v. Gonzalez*, No. 2 CA-CR 2003-0014 (memorandum decision filed Apr. 22, 2004).

¶2 Gonzalez then filed a notice of post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., 17 A.R.S. Counsel was appointed and informed the trial court that after reviewing the record she was unable to identify any colorable claims cognizable under Rule 32. Accordingly, she asked that Gonzalez be provided an opportunity to file a supplemental petition in propria persona. *See* Ariz. R. Crim. P. 32.4(c). Counsel also provided a statement of facts and procedural history “to assist both the court and Petitioner.”

¶3 As the trial court correctly concluded, most of the claims Gonzalez raised in the supplemental petition for post-conviction relief were precluded because they were either raised or could have been raised in his appeal. *See* Ariz. R. Crim. P. 32.2(a). The trial court addressed Gonzalez’s specific allegations of ineffective assistance of counsel; his claim that he was entitled to a new trial based on a change in the law pertaining to the burden of proof when a defendant alleges his conduct was justified, *see* A.R.S. § 13-205; and his claim that his sentence was illegal in light of *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531 (2004). The trial court summarily denied relief.

¶4 In his petition for review, Gonzalez reasserts the arguments he raised below. We review a trial court’s ruling on a petition for post-conviction relief for an abuse of the court’s discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). The trial

court did not abuse its discretion in finding that Gonzalez had failed to state a colorable claim for relief that would entitle him to an evidentiary hearing.¹ The trial court clearly identified and correctly resolved the claims raised, and no purpose would be served by restating the court's ruling here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Because its resolution of all of Gonzalez's claims clearly and accurately states the facts and applicable law, we adopt the trial court's order. *Id.*

¶5 Although we grant the petition for review, we deny relief.

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

PHILIP G. ESPINOSA, Judge

¹A colorable claim is one that has an appearance of validity such that, if the factual allegations are true, a defendant would be entitled to relief. *State v. Lemieux*, 137 Ariz. 143, 147, 669 P.2d 121, 125 (App. 1983).